

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

ROY E. ERWIN, RUTH ILENE
ERWIN ROBERTS, et al.,
Plaintiffs,

v.

BRYAN F. RUSS, JR., JAMES H.
McCULLOUGH, et al.,
Defendants.

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CIVIL ACTION NO. W:09-CA-127

AMENDED SCHEDULING ORDER

Pursuant to Rule 16 of the Federal Rules of Civil Procedure, the disposition of this case will now be controlled by the following schedule of deadlines. This Order does not supplant the requirements of Local Rule CV-16, nor any other local rule with which it conflicts.

2. July 30, 2010

NEW PARTIES will be joined by this date. The party causing such joinder will provide copies of this scheduling order, along with any attachments, to the new parties.

3. August 27, 2010

MOTIONS FOR LEAVE TO FILE AMENDED and/or SUPPLEMENTAL PLEADINGS will be filed by this date.

PARTIES asserting claims for relief shall file their designation of testifying experts.

4. September 24, 2010

PARTIES resisting claims for relief shall provide their designation of testifying experts to the other parties. All designations of rebuttal experts shall be provided within 15 days of receipt of the report of the opposing expert.

DISPOSITIVE MOTIONS, as defined in Local Rule CV-7(h), must be filed by this date.

NOTE: The Court will not act upon any motions, either dispositive or non-dispositive, which fails to comply with Local Rule CV-7. Motions are limited to 10 pages in length unless otherwise authorized by the Court. Attorneys are directed not to file a request to exceed page limit with the proposed pleading attached. Absent specific order of the Court, discovery is not to be held in abeyance pending ruling of the Court on any motion.

DISCOVERY should be completed by this date. Counsel may, by agreement, continue discovery beyond this date, but there will be no intervention by the Court, such as Rule 37 proceedings, absent a showing of extreme prejudice. No trial setting will be vacated because of information acquired in post-deadline discovery.

5. November 12, 2010

Pursuant to Federal Rule of Evidence 702, an objection to the reliability of an expert's proposed testimony shall be made within 30 days of receipt of the written report of the expert's proposed testimony, or within 30 days of the expert's deposition, whichever is later, but must be filed no later than this date. Such a motion must specifically state the basis for the objection and identify the objectionable testimony.

6. December 3, 2010

The items required by Local Rule CV-16(e) must be filed by this date.

NOTE: The list of proposed witnesses shall include a brief, but specific statement of the testimony to be offered by the witness.

7. December 8, 2010

Pursuant to Local Rule CV-16(e), the parties should submit objections to specific deposition testimony, and objections to the admissibility of any exhibits. The objection should be detailed and specific. Objections not disclosed by this date, other than objections under Rules 402 and 403 of the Federal Rules of Evidence, shall be deemed waived unless excused by the Court for good cause shown.


8. December 13, 2010

JURY SELECTION AND TRIAL will begin at 9:00 A.M. on this date in Courtroom #1, United States Courthouse, 800 Franklin Avenue, Waco, Texas. Counsel MUST be prepared for trial by this date and thereafter will be subject to call by the Clerk on short notice.

EXHIBITS TO BE USED AT TRIAL SHOULD BE BOUND IN THREE-RING BINDERS (one copy for Judge Smith, originals exhibits for Court Clerk). ALL EXHIBITS MUST BE MARKED PRIOR TO TRIAL.

NOTICE: FAILURE TO COMPLY WITH THIS ORDER MAY RESULT IN SANCTIONS PURSUANT TO FED. R. CIV. P. 16(f).

SIGNED this 11th day of June, 2010.



WALTER S. SMITH, JR.
UNITED STATES DISTRICT JUDGE